

**SUMMARIZED MINUTES
SCOTTSDALE CITY COUNCIL
TUESDAY, FEBRUARY 8, 2005**



**CITY HALL KIVA
3939 N. DRINKWATER BOULEVARD
SCOTTSDALE, AZ 85251**

CALL TO ORDER

Mayor Manross called to order a Regular Meeting of the Scottsdale City Council on Tuesday, February 8, 2005 in the Kiva, City Hall, at 5:02 P.M.

ROLL CALL

Present: Mayor Mary Manross
Vice Mayor Betty Drake
Council Members Wayne Ecton, W.J. "Jim" Lane,
Robert Littlefield, Ron McCullagh, and Kevin Osterman

Also Present: City Manager Jan Dolan
City Attorney Joseph Bertoldo
City Clerk Carolyn Jagger

PLEDGE OF ALLEGIANCE – Councilman Kevin Osterman

INVOCATION – Pastor Robert Brewer of Scottsdale Bible Church

PRESENTATIONS/INFORMATION UPDATES – The Work Study Session item scheduled for February 15, 2005 related to GLO easements and abandonment processes has been continued to March 1, 2005, and the Power Line Undergrounding item scheduled for March 1, 2005 has been moved to the February 15, 2005 Work Study Session.

PUBLIC COMMENT

Mayor Manross opened public testimony:

Kevin Jones, 3714 N 85th Street, 85251, thanked the Council for their prompt action in removing the construction site from his neighborhood and for listening to the residents.

Randy Mueller, 10161 E Desert Cove, 85260, spoke in opposition to the traffic circle and other restrictions being installed on 96th Street.

Nan Nesvig, 6144 N 77th Place, 85250, urged Council to reopen discussion on the Paradise Valley Arsenic Removal facility and the reservoirs as two separate issues. She had no problem with the facility, but wanted the reservoirs buried as they would create an eyesore and restrict views of Camelback Mountain.

Mike Merrill, 8713 E Vernon Avenue, 85257, voiced concern about the open meeting and procurement laws in regard to the direction provided to staff at the February 1, 2005 work study session, requested striking of prior action, and mentioned the possibility of filing an injunction against the RFP.

Leon Spiro, 7814 E Oberlin Way, 85262, requested the Council acquire the opinion of Gary Birnbaum, an attorney and arbiter of real estate law, in regard to the city's policy of abandoning roadway and public utility easements.

Mayor Manross closed public testimony.

MINUTES

REGULAR MEETINGS: January 11, 2005

COUNCILMAN OSTERMAN MOVED FOR APPROVAL OF THE JANUARY 11, 2005 REGULAR MINUTES. COUNCILMAN ECTON SECONDED THE MOTION, WHICH CARRIED 7-0.

CONSENT AGENDA ITEMS 1 – 17

Item 16 was removed from the Consent Agenda for separate discussion.

1. **Cook 'N Jack's (Restaurant) Liquor License**

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) liquor license for an existing location that has changed ownership.

Location: 7042 E. Indian School Road

Reference: 95-LL-2004

Staff Contact(s): Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, kekblaw@scottsdaleaz.gov; Connie Padian, Customer Service Chief Officer, 480-312-2664, cpadian@scottsdaleaz.gov

2. **94th Street Rezoning**

Requests:

1. Rezone from Single Family Residential Environmentally Sensitive Lands District (R1-35 ESL) to Single Family Residential Environmentally Sensitive Lands District (R1-10 ESL) with amended development standards on a 25 +/- acre parcel located at 18001 N. 94th Street.

2. Adopt Ordinance No. 3603 affirming the above rezoning.

Location: 18001 N. 94th Street

Reference: 14-ZN-2004

Staff Contact(s): Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, kekblaw@scottsdaleaz.gov; Randy Grant, Chief Planning Officer, 480-312-7995, rgrant@scottsdaleaz.gov

3. Pima Acres Abandonment

Requests:

1. Abandon 25 feet of roadway easement on lots 2, 4, 8, and 9 of Pima Acres, along Sierra Pinta Drive.
2. Reserve a 25-foot public utility easement.
3. Adopt Resolution No. 6617 vacating and abandoning a public right-of-way.

Location: 9245, 9201, 9001 and 8867 E. Sierra Pinta Drive

Reference: 21-AB-2004

Staff Contact(s): Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, kekblaw@scottsdaleaz.gov; Randy Grant, Chief Planning Officer, 480-312-7995, rgrant@scottsdaleaz.gov

Leon Spiro, 7814 E Oberlin Way, 85262, wondered if the HOA needed to vote on this abandonment. The Mayor responded that the HOA did not need to vote on the abandonment.

4. Loloma Abandonment

Requests:

1. Abandon a 2-foot and a 3-foot strip of roadway easements along the north side of the Loloma Redevelopment site alley east and parcel 130-12-135A.
2. Adopt Resolution No. 6614 vacating and abandoning a public right-of-way.

Location: Goldwater Boulevard and Main Street

Reference: 22-AB-2004

Staff Contact(s): Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, kekblaw@scottsdaleaz.gov; Randy Grant, Chief Planning Officer, 480-312-7995, rgrant@ScottsdaleAZ.gov

5. DC Ranch Final Ordinance Adoption

Request: Consider adopting Ordinance No. 3605 (final ordinance adoption) affirming zoning classifications as approved in case 54-ZN-1989#2. The original zoning is as follows:

- DC Ranch Parcels 5.9a, 5.9b, 5.9c and 5.12 - Resort/Townhouse Residential District, Planned Community District (R-4R PCD)
- DC Ranch Parcels 6.1 - Single Family Residential District, Planned Community District (R1-43 PCD and R1-7 PCD)
- DC Ranch Parcels 6.7, 6.8 and 6.9 - Single Family Residential District, Planned Community District (R1-43 PCD and R1-10 PCD)
- DC Ranch Parcels - Conservation Open Space, Planned Community District (COS PCD)

References: 54-ZN-1989#2, #4, #5 and 54-ZN-1989#2G

Staff Contact(s): Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, kekblaw@scottsdaleaz.gov; Randy Grant, Chief Planning Officer, 480-312-7995, rgrant@scottsdaleaz.gov

6. Advanced Health Care Conditional Use Permit

Request: Consider a conditional use permit for a medical rehabilitation facility (analogous to a hospital) on a 2.3 +/- acre parcel located at 9846 N. 95th Street with Commercial Office (C-O) District zoning.

Location: 9846 N. 95th Street

Reference: 26-UP-2004

Staff Contact(s): Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, kekblaw@scottsdaleaz.gov; Randy Grant, Chief Planning Officer, 480-312-7995, rgrant@scottsdaleaz.gov

7. Grant Application for Lost Dog Wash Access Area in the McDowell Sonoran Preserve

Request: Adopt Resolution No. 6606, authorizing staff to submit a grant application for approximately \$180,000 in Arizona State Parks Trails Heritage Funds to assist in funding for the development of the Lost Dog Wash Access Area in the McDowell Sonoran Preserve, and to accept the grant funding should the application be successful.

Related Policies, References:

- This action directly supports City Council Broad Goal B: Preserve the Character and Environment of Scottsdale, and sub-goals under Goal B: Create access into the Preserve, and Create learning opportunities in the Preserve. This action also directly supports City Council Broad Goal E: Fiscal and Resource Management.
- This project is consistent with the McDowell Sonoran Preserve Access Areas Report approved by the McDowell Sonoran Preserve Commission and accepted by the City Council in 1994 and updated in 1999, and the Conceptual Preserve Trails Plan approved by the McDowell Sonoran Preserve Commission and accepted by the City Council in 1998. This project is also consistent with the goals and objectives of the Trails Master Plan approved by the City Council in February 2004.
- The McDowell Sonoran Preserve Access Area Design and Site Standards Manual prepared by Floor and Associates under Professional Services Contract No. 2002-094-COS, will be the basis for preparation of the construction plans for access area amenities, including the Lost Dog Wash Access Area.

Staff Contact(s): Robert Cafarella, Preservation Director, 480-312-2577, rcafarella@scottsdaleaz.gov; Scott Hamilton, Trails Planner, 480-312-7722, shamilton@scottsdaleaz.gov

8. Construction Bid Award for the McDowell Mountain Ranch Park & Aquatic Center Requests:

1. Authorize Construction Bid Award No. 05PB036 to Ry-Tan Construction, Inc., the lowest responsive bidder, at their lump sum bid of \$12,199,000.
2. Authorize Capital Improvement Project budget transfer of \$2.5 million from project P0302, Aging Park Facility Renovations, to project P0209 McDowell Mountain Ranch Park & Aquatic Center.

Related Policies, References:

- Contract Modification to Architectural Services Contract No. 2001-114-COS (6/2/03)
- Municipal Use Master Site Plan Approval, Case 20-UP-1994 #2 (3/17/03)
- Planning and Zoning Commission Recommendation (11/13/02)
- Parks and Recreation Commission Recommendation (11/6/02)
- Architectural Services Contract No. 2001-114-COS (8/20/01)
- IGA #950009 with the Scottsdale School District (6/6/95)
- Municipal Use Master Site Plan Case No. 20-UP-1994

Staff Contact: Al Dreska, Municipal Services General Manager, 480-312-5555, adreska@scottsdaleaz.gov

9. Authorize the Acquisition of Sewer and Water Easements

Adopt Resolution No. 6613 authorizing the acquisition of 1654 square feet of sewer and water easement at 25635 North Ranch Gate Road and 1651 square feet of sewer and water easement at 25636 North Ranch Gate Road in the amount of \$4,300 for each easement, for a total of \$8,600. The easements will be used for the construction of a waterline connection between the existing North Ranch Gate Road waterline and a future developer installed waterline along the Yearling Road alignment to the north.

Staff Contact(s): Al Dreska, Municipal Services General Manager, 480-312-5555, adreska@scottsdaleaz.gov; Stanley Seigal, Asset Management Coordinator, 480-312-7042, sseigal@scottsdaleaz.gov

10. Modification of Assessments for the Bell II Improvement District

ADOPT Resolution No. 6608 which will modify improvement district assessment numbers 000.005, 009 and 010 for water lines, sewer lines and street improvements within the Bell II Improvement District, Series No. 106.

Related Policies, References:

- Resolution No. 5751, declaring the intention to form the improvement district, adopted by Council on February 4, 2001.
- Resolution No. 5832, ordering work to begin within the district, adopted by Council on June 5, 2001.
- Resolution No. 5961, approving the Assessment Diagram and Ordering the Sale of not to exceed \$7.9 Million in Improvement District (ID) Bonds, adopted by Council on November 5, 2001.
- Resolution No. 6262 approving final assessments, adopted by City Council on April 1, 2003.

Staff Contact: Al Dreska, Municipal Services General Manager, 480-312-5555, adreska@scottsdaleaz.gov

Leon Spiro, 7814 E Oberlin Way, 85262, wondered if it was the intention of the city to permit construction on federal government roadway easements in the improvement district.

11. Engineering Services Contract for the Design of Water Transmission Improvements in the Downtown Area

Request: Authorize engineering services contract #2005-012-COS with CSA Engineering, Inc., in the amount of \$214,214, for the design of water transmission improvements to provide adequate water flow and pressure to meet requirements of projected development in the downtown area.

Staff Contact: Al Dreska, Municipal Services General Manager, 480-312-5555, adreska@scottsdaleaz.gov

12. Extension of Three Contracts for Traffic-Engineering Services

Request: Authorize the third annual extension of the following five-year contracts: #2001-155-COS with Parsons Brinckerhoff; #2001-156-COS with United Civil Group; and #2001-158-COS with Kirkham Michael. These firms provide traffic-engineering services to the City under the Traffic Impact and Mitigation Analysis (TIMA) Program. The contracts were awarded January 2002 for a one-year term with four annual extensions, and thus are set to expire in January 2007. City Council authorized the second annual contract extensions in February 2004. The three firms have agreed to continue providing the contracted services for another year.

Related Policies, References: Resolution 5953 authorized original contracts; City Procurement Code.

Staff Contact: Mary O'Connor, Transportation General Manager, 480-312-2334, moconnor@scottsdaleaz.gov

13. Intergovernmental Agreements for Design Concept Report Grants for Airport Capital Projects

Request: Adopt Resolution No. 6609, authorizing Intergovernmental Agreement (IGA) Nos. 2005-009-COS and 2005-010-COS with Arizona Department of Transportation (ADOT) – Aeronautics for design concept reports for a security lighting upgrade and re-design of the airport entrance road and parking lot. The total project cost for the designs is \$185,000. Two ADOT – Aeronautics grants (totaling approximately \$166,500) will fund 90% of the total cost. The 10% grant match of \$18,500 will be funded by Aviation Enterprise funds. The grants will be used for the Airport Runway Safety Area Improvements project approved in the FY 2005 Airport Capital Improvement Program.

Staff Contact(s): Mary O'Connor, General Manager-Transportation, 480-312-2334, moconnor@scottsdaleaz.gov; Scott T. Gray, Aviation Director, 480-312-7735, sgray@scottsdaleaz.gov

14. Arizona Public Safety Personnel Retirement System – Fire Department Participation, Joinder Agreement and Local Boards

1. Adopt Resolution No. 6542 to:

- Authorize the steps to be taken to become a participating employer in the Arizona Public Safety Personnel Retirement System (PSPRS) on behalf of the full-time, paid municipal firefighters regularly assigned to hazardous duty of the City of Scottsdale as set forth in Title 38, Chapter 5, Article 4, Arizona Revised Statutes.
- Accept the preliminary actuarial survey, which determined the City's estimated cost to participate in the PSPRS.
- Authorize the City Clerk to file a certified copy of this resolution with the Fund Manager of the PSPRS.

2. Adopt Resolution No. 6543 to authorize the Mayor to sign a Joinder Agreement with the Arizona PSPRS Fund Manager.

3. Adopt Ordinance No. 3589 to revise City Code provisions to establish a local PSPRS board for the City's municipal fire department consistent with provisions for the local PSPRS board for the City's municipal police department.

Related Policies, References:

- September 7, 2004 Council actions to authorize fire department staffing and the phased hiring of selected personnel to begin in FY 2004/05.
- Title 38, Chapter 5, Article 4, Arizona Revised Statutes – Public Safety Personnel Retirement System.

Staff Contact(s): Neal Shearer, Assistant City Manager, 480-312-2604, nshearer@scottsdaleaz.gov; Joyce Lira, Human Resources Director, 480-312-2690, jlira@scottsdaleaz.gov; Joseph Bertoldo, City Attorney, 480-312-2405, jbortoldo@scottsdaleaz.gov

15. Intergovernmental Agreement with the Scottsdale Unified School District No. 48

Request: Adopt Resolution No. 6615 which authorizes IGA #2005-013-COS with the Scottsdale Unified School District (SUSD) No. 48 allowing the City to install lighting systems and schedule certain ballfields during non-school hours at Supai Middle School.

Related Policies, References:

- Resolution No. 6351 and IGA #2003-120-COS, approved August 25, 2003 between the City of Scottsdale and the SUSD No.48 which allowed City staff and contractors access to certain District fields and scheduling of those fields during non-school hours.
- Resolution No. 5525 and Intergovernmental Agreement #2000-043-COS, approved April 30, 2001 which authorized shared facility uses between the City of Scottsdale and the SUSD.

Staff Contact(s): Debra Baird, Community Services General Manager, 480-312-2480, dbaird@scottsdaleaz.gov; Judy Weiss, Parks and Recreation Director, 480-312-2416, jweiss@scottsdaleaz.gov

16. Calendar Year 2005 Audit Plan for the Office of the City Auditor

ITEM 16 WAS REMOVED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION. SEE PAGE 8.

17. Authorize Continuing Legal Expenses for Witting v. City of Scottsdale

Request: Adopt Resolution No. 6623, authorizing the Mayor to execute Contract No. 2005-019-COS, for payment of legal fees in the defense of Witting v. City of Scottsdale, CV2003-023872, currently pending in Maricopa County Superior Court, for an additional contract amount of \$40,000.

Related Policies, References: In June 2004, the City Attorney authorized an initial contract for an amount up to \$20,000 with the law firm of Mariscal, Weeks, McIntyre & Friedlander, P.A. to provide specialized and expert legal services relating to litigation.

Staff Contact(s): Joseph R. Bertoldo, City Attorney, 480-312-2405, jbortoldo@scottsdaleaz.gov; Deborah W. Robberson, Deputy City Attorney, 480-312-2405, drobberson@scottsdaleaz.gov

Leon Spiro, 7414 E Oberlin Way, 85262, expressed that if the city could afford funds for legal services, then the city could afford the services of an attorney who was an expert in federal land patent roadway and public utility easement issues.

MOTION AND VOTE – CONSENT AGENDA

COUNCILMAN LITTLEFIELD MOVED FOR APPROVAL OF CONSENT AGENDA ITEMS 1-17, EXCEPT FOR ITEM 16. COUNCILMAN LANE SECONDED THE MOTION, WHICH CARRIED 7-0.

REMOVED FROM CONSENT AGENDA FOR SEPARATE ACTION:

16. Calendar Year 2005 Audit Plan for the Office of the City Auditor

Request: Consider and approve the proposed 2005 Audit Plan for the Office of the City Auditor.

Related Policies, References:

- City Charter, Article 2, Section 20, "Internal Auditor"
- City Ordinance, Chapter 2, Article III, Division 6, "City Auditor"

Staff Contact: Cheryl Barcala, City Auditor, 480-312-7867, cbarcala@scottsdaleaz.gov

VICE MAYOR DRAKE MOVED TO AMEND THE AUDIT PLAN TO INCLUDE AN AUDIT OF WESTWORLD, REVIEWING NOT ONLY FINANCIAL AND MANAGERIAL ASPECTS, BUT

ALSO CONFORMANCE WITH THE COST SHARE AND LAND USE AGREEMENT OF 1982 BETWEEN THE BUREAU OF RECLAMATION AND THE CITY OF SCOTTSDALE. COUNCILMAN MCCULLAGH SECONDED THE MOTION TO AMEND, WHICH CARRIED 7-0.

VICE MAYOR DRAKE MOVED TO APPROVE ITEM 16 AS AMENDED. COUNCILMAN LITTLEFIELD SECONDED THE MOTION, WHICH CARRIED 7-0.

MAYOR AND COUNCIL ITEMS

1. Ordinance Revision Regarding Banning or Further Restricting the Use of Motorized Skateboards and Similar Vehicles

Request: Per Councilmember Drake, consider initiating an ordinance revision regarding banning or further restricting the use of motorized skateboards and similar vehicles.

Related Policies, References: City of Scottsdale Revised Code, Article IV, Section 17-90 to 17-97.

Mayor Manross opened public testimony:

Ron Barr, 1015 W Halstead, Phoenix, 85023, believed it would be better to amend the existing regulations or enforce the regulations rather than place a total ban on motorized skateboards. He further felt that age fourteen was too young, and that there were ways to reduce the noise.

Walter Davidson, 4002 N 85th Street, 85251, did not feel it would be fair to ban all scooters, but stated that scooters should be registered and have the rules enforced.

John Holmes, 8331 E Sheridan Street, 85257, suggested an educational class or a license for motorized skateboards and similar vehicles, but he didn't support a total ban.

Mayor Manross closed public testimony. One additional comment card was received from a citizen opposed to motorized skateboards but not wishing to speak.

Council and staff discussion:

- Council requested more information and statistical data before considering an ordinance.
- Council indicated a preference to increasing restrictions on motorized skateboards and similar vehicles rather than a complete ban.
- Deputy Police Chief John Cocca said the Police Department has the resources to enforce violations as they are prioritized along with other calls coming in.
- Last year, 23 citations were issued resulting in 53 violations; there has been only one accident, in 2003, which resulted in a fatality.
- It was suggested that as noise seemed to be the biggest issue from citizens, perhaps just the noise ordinance should be reviewed.
- Council requested information on the types and the related costs of educational or enforcement programs that have worked for other cities.
- Staff was directed to develop more information relative to the eight issues in the staff report, receive public input, and bring findings to Council.

VICE MAYOR DRAKE MOVED TO PROCEED WITH OPTION B IN THE STAFF REPORT, REVISED TO READ "DIRECT STAFF TO DO FURTHER RESEARCH WITH THE AIM OF INITIATING AN ORDINANCE REVISION TO BAN OR FURTHER RESTRICT THE OPERATION OF MOTORIZED SKATEBOARDS AND SIMILAR VEHICLES, INCLUDING HOLDING PUBLIC

HEARINGS." COUNCILMAN ECTON SECONDED THE MOTION, WHICH CARRIED 6-1 WITH COUNCILMAN LITTLEFIELD DISSENTING.

City Manager Jan Dolan clarified that the public forums will be staff sponsored and conducted for a research package and white paper that will be provided to the Council for discussions in determining whether or not the Council will initiate any changes to City ordinances.

Council asked that staff include in the report information on:

- Crash and safety records from Scottsdale and other cities
- Types of restrictions implemented in other cities
- Noise issues and how to reduce them
- How to work with schools and retailers in educating riders

MAYOR AND COUNCIL ITEMS

Councilman Lane requested that the item regarding the Rose Garden RFP be placed on a regular agenda for Council discussion.

Councilman McCullagh requested that discussion of a Noise Ordinance be placed on a future Council Work Study Session agenda.

PUBLIC COMMENT

Susan Wheeler, 9616 E Kalil, 85260, spoke in support of the traffic restrictions constructed on 96th Street, and provided a history of studies done on 96th Street and Cactus Road since 1990.

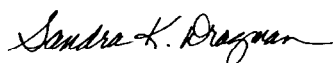
Sean Tierney, 6120 N 77th Place, 85250, spoke in opposition to the water tanks proposed along the canal and Cattletrack, saying the arsenic facility could be built now and the tanks later.

Roland Kueffner, 6207 N Cattletrack Road, 85250, spoke in opposition to the water tanks as they had nothing to do with the arsenic removal project, and urged Council to rethink their decision.

CITY MANAGER'S REPORT – None

ADJOURNMENT - With no further business to discuss, the meeting adjourned at 6:21 P.M.

SUBMITTED BY:



Sandy Dragman
Recording Secretary

REVIEWED BY:



Carolyn Jagger
City Clerk

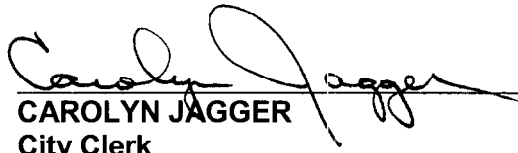
Officially approved by the City Council on February 22, 2005

CERTIFICATE

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Regular Meeting of the City Council of Scottsdale, Arizona held on the 8th day of February 2005.

I further certify that the meeting was duly called and held, and that a quorum was present.

DATED this 23rd day of February 2005.



CAROLYN JAGGER
City Clerk